

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kiyoshi Takeuchi et al.

Application No.: 10/575,631

Confirmation No.: 1764

Filed: January 30, 2007

Art Unit: 2815

For: SEMICONDUCTOR DEVICE AND METHOD
FOR PRODUCING THE SAME

Examiner: E. Lee

COMMUNICATION – REQUEST TO REISSUE OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Applicants request the Patent Office issue a new Office Action that considers the Preliminary Amendment filed on April 7, 2006. M.P.E.P. § 710.06 explicitly recites:

Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

See M.P.E.P. § 710.06 (emphasis added.)

The Office Action mailed on November 25, 2008, failed to consider the Preliminary Amendment filed on April 7, 2006. The Preliminary Amendment is attached as Exhibit A. The postcard receipt noting the filing of the Preliminary Amendment is attached as Exhibit B. Applicants' representative pointed this out to the Examiner during a telephonic interview on December 23, 2008, within one month of the mailing of the Action and the Examiner confirmed that the Preliminary Amendment was not considered before the first Office Action issued. Because Applicants' representative informed the Office of the defect in the Office Action within one month of the mailing date, the Office, according to the Rules set forth in M.P.E.P. 710.06, must restart the previously set period for reply to run from the date the error is corrected.

In view of the above, Applicants request a new Office Action be issued that considers the Preliminary Amendment.

Dated: December 23, 2008

Respectfully submitted,

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Inventor: Kiyoshi Takeuchi et al.

Atty Docket No.: W1878.0230

Application No.: Not Yet Assigned

Filing Date: Concurrently Herewith

Title: SEMICONDUCTOR DEVICE AND METHOD FOR PRODUCING THE SAME

10/575631

Documents Filed:

English language translation of the International application Information Sheet (ADS)

Preliminary Amendments

Form PCT/RO/101; PCT/IB/304;
PCT/ISA/210; PCT/ISA/237; WO 005/036651

Transmittal Letter to the United States Designated-Elected Office and Certificate of Express Mailing (4 pages)

Sb/08 Certificate of Express Mailing (2 pages)

Drawings (75 figures, 24 sheets)

Information Disclosure Statement

Cited references (18 cited, 15 attached)

Payment by credit card. Form PTO-2038 is attached (1 page)

Charge \$1,100.00 to credit card

Via: Express Mail: Airbill No. EV 262 795 859

Sender's Initials: MJS/bb

Date: April 7, 2006